



MINUTES

**Meeting of Committee on Public Service
Tuesday, September 13, 2016 @ 6:30p.m.
Tenth Floor Conference Room – Lansing City Hall**

CALL TO ORDER

The meeting called to order at 6:35 p.m.

ROLL CALL

Councilmember Kathie Dunbar, Chair
Councilmember Patricia Spitzley, Vice Chair-excused
Councilmember Adam Hussain, Member

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Council Member Carol Wood
Kathleen Ryan
Vickie Puetz
Bill Puetz
Donald Ward
Warren Bertram
Jason Froebe
John Gibbs
Nathan Hartley
Jerry Fox
Millie Fox
Jennet Francisco
Kathy Miles
Candance Melvin
Ruth Thole
Deb Brown
Eliza Leggions
Mildred Templeton
Janice F Bell
Ericka Covington
Gloria Stong
Steven Peck
Marianna Greco
Frances Verser

Ben Allen
Arthur Roberts III
Terry Black
Neila Tillman
Kathy Tobe
Scott Allen
Cindy Allen
Elaine Womboldt
Cheryl Croyle
Amanda Moses
Lawrence Pryor
Gary Hartsuff
Patty Hartsuff

Introductions

Discussion/Action:

Council Member Dunbar recapped for the residents the process beginning with Francis Fin in 1970 when the development began, and when the subdivision was registered deed restrictions were placed on all their properties. Documents on the tables were referenced for all the residents. Council Member Dunbar then read the section from the Declaration, which stated "All references in these restrictions to a lot shall mean and include the lot together with all improvements thereon. The Proprietor desires to impose protective restrictions upon this Subdivision in order to insure its most beneficial development as a residential area, to prevent any use of the land which might tend to diminish its valuable or pleasurable enjoyments and to provide for maintenance and upkeep of the common areas to assure harmony, uniformity, attractiveness and utility of the project." It was acknowledged by the Committee that over time properties could have sold and the new owners have not been informed of the covenants, which run with the land, no matter who owns the deed. Council Member Dunbar pointed out that there is also a statement that says if the residents didn't pay the assessment to the association for maintenance for the Common areas they could foreclose on the property as the right under condo association. In the past there was a special assessment for the upkeep of the common area, and in 1970 it was \$37.50, but now it could be close to \$128.

A few residents noted they were the original owners and were involved when there was an association in the beginning. However the association dissolved in 1974 and any funds left with the President and Treasurer at the time.

Council Member Dunbar continued with the history of the development and the establishment of a Special Assessment in 2002, and at the time that one was set up for five (5) years, however there were issues that came up where there was so much dumping of debris, they could not mow without taking that stuff out. Neighbors starting dumping over the fences, so in 2008 when the assessment came up for renewal the City said they would have to add an additional \$20 to cover the cost of removal of debris, due to outcry from the neighborhood, the Mayor and Council decided the City would no longer take care of it or proceed with the special assessment.

A resident pointed out that when the City did mow, it was still over 9" tall cause they only used a brush hog and only mowed twice a year.

Residents asked for details on how the assessment would be divided amongst the residents. Council Member Dunbar clarified that it is based on the parcels, not on what is on the parcel. There re 322 parcels out there. The City cannot enforce or penalize, the Association owns the property. The association has to get a "rite of trespass" for violations, because it is owned by

all of them. Mr. Smiertka added that depending on what is being dumped it could be a civil or criminal complaint.

Council Member Dunbar then spoke about what the Association can do once it is re-establishes, such as collect dues , perform maintenance itself, create the special assessments and collect from everyone evenly. Currently the property is posing a health and safety violation, and it would be best for the association to come up with a proactive way to approach the situation.

A resident then asked how the association is supposed to collect, and Council Member Dunbar again stated the option of reconstituting the association, but the residents also noted the frustration when residents won't pay, therefore they are looking for the City to maintain. Mr. Smiertka informed that the residents should put together their association, and the current By-Law state they have an annual meeting every March, at which time they would need 25% of the association to call the meeting, and change the By Laws.

Council Member Wood asked if as an association they could sell the commons area. MR. Smiertka stated there is a provision in the covenants that states they cannot sell, and no option for conveyance except for public utilities. The residents then asked if it could be donated, and Committee noted that would require a willing recipient. The question then was asked if they could sell to a neighbor, however the issue then becomes increased taxes and assessment for the buyer because they have more land. Any option for building on it was removed also because there is no road access, and it would be added cost to the association for engineering. In the case of a resident not paying, Mr. Smiertka noted that according to the By Laws, there is provision that states the association can place a lien on the property.

The Committee and residents began the discussion on cost, and removal of debris. Council Member Dunbar referenced an email she had received from Code Compliance and stated it would be an estimated cost of \$15,000 a year, with roughly \$46 per property. This assessment would appear on the winter bill, and the City would mow more than once per year, but the Committee could not speak specifically to how many per year.

The resident at 4307 Old Castle informed the Committee that her back yard always has standing water so she is looking for assistance during this process to have that area built up so it does not continue to flood. It appears there is a ditch that runs 5' past her fence.

The residents asked what happen if 20% decide to dissolve the association. Council Member Dunbar confirmed they could dissolve the entity but can't remove the deed restrictions. Mr. Smiertka confirmed the association is set up in the declaration, so it is an entity.

Mr. Hartley spoke in support in having the assessment done and the City maintaining the property. He did note for the Committee that currently all the access points to the property are either partially blocked or completely blocked.

Council Member Dunbar reminded the residents that if they have anything on the common area, not their property, it will have to be removed or it will be taken during the cleanup. Any trees would be considered plants and natural to the common area.

The residents held quick discussions on what they could do with the property once it is cleaned up and mowed. Those ideas included a natural area, trails, gardens, etc.

Mr. Pegic asked if the City can collect the assessment and give the funds to the association to maintain. Council Member Dunbar clarified for the group that once the City collects the assessment in the taxes, they have to allocate the funds.

Council Member Dunbar outlined what the next steps would be, which included the need of 20% of the association to say they want a special assessment again, then call a meeting of the Committee on Public Service. She noted that currently the City and Lansing Housing Commission have enough parcels to have the percentage to choose to have the Special Assessment. Council Member Dunbar stated that based on information she was provided by Code Compliance, the fee for this assessment would be \$46 for a full year of mowing.

A resident asked what a City standard for mowing is; is it twice a month; and does it need to be mowed to 3 inches. There was also a question on the location of fencing and maintenance up to the fence on both sides. Council Member Dunbar confirmed that a fence should be located within 6 inches of the property line, but the City will have to deal with issues of items in common area and structures on property lines once the lines are determined. Therefore, it was noted to the residents that a survey will have to be part of the assessment costs.

Mr. Smiertka noted that the association can, with ownership described, get the required percentage to make the association active again.

A resident asked if the common area, once cleaned and mowed, could be a community garden. Council Member Dunbar noted that would require the association to make the decision, it is private property.

The resident at 4013 Heathgate noted for the record that there are three (3) large holes behind her property that need to be checked.

A resident asked if there could be signs for no dumping and trespassing placed after it is cleaned up and mowed. Council Member Dunbar stated there could be, but it is the association property so they would have to perform and pay for that task. She did note that the Council Members have expense accounts they might be able to utilize to assist with that. If a sign is placed, then when they witness someone dumping, they can call the police and say there is a violation for dumping, there is a sign.

The resident at 4219 Killarney noted there is a black wiring located in the common area behind his house that Code should be aware of.

A resident asked for direction on getting the standing water behind her property taken care of. Council Member Dunbar assured that too will be looked at during the cleanup and could require the County to review for a potential drain, but if fill dirt is required that could be an added cost to the association.

A resident asked the Committee to provide information on how many homes are rented and how many are owned. Council Member Dunbar would research that however noted that whether they are rentals or not, they will still be in the association.

Mr. Hartley invited all the residents to the next neighborhood meeting on the 2nd Thursday of the month at Woodcreek.

Council Member Dunbar asked Mr. Smiertka about the legal liability of the area. Mr. Smiertka stated the association would want to form a corporation to protect their liability.

Council Member Dunbar stated that the documents on the tables can be forwarded via email to everyone present along with the By Laws for their neighborhood meeting. A survey of the property can also be provided to the Neighborhood association so the residents can note on a plan where obstacles are, and access points are blocked.

Council Member Dunbar outlined the special assessment process which will begin with identifying the issues, then notifying the residents of a public hearing at Council and providing a tentative roll, then phase 3 is the actual work. A final special assessment roll will be done based on the cost of the work performed.

A resident asked if the estimate of \$15,000 was for one time only, and Council Member Dunbar noted her understanding was that it was for the season, which she was not sure how many mowings that involved.

ADJOURN

The meeting was adjourned at 8:02 p.m.

Submitted by, Sherrie Boak,

Recording Secretary

Lansing City Council

Approved: October 24, 2016